

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

WATER-RELATED TOPICS OVERVIEW COMMITTEE

Tuesday, July 12, 2011
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Tom Fischer, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Tom Fischer, Randy Burckhard, Larry Luick, George L. Nodland, Connie Triplett; Representatives Chuck Damschen, Curt Hofstad, Curtiss Kreun, Jon Nelson, Kenton Onstad, Jim Schmidt

Members absent: Representatives Bill Devlin, Lee Kaldor

Others present: See [Appendix A](#)

At the request of Chairman Fischer, committee counsel reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#). Committee counsel said the committee was responsible for legislative overview of water-related topics and related matters and any necessary discussions with adjacent states on water-related topics and is to conduct a review of the state's irrigation laws and rules and evaluate the process of the prioritization of water projects. In addition, he said, the committee has been assigned responsibility to consult with the State Water Commission in setting the priority within the commission's budget of a loan of \$40 million from the resources trust fund at the request of the Western Area Water Supply Authority. Finally, he said, the chairman of the Legislative Management had assigned a study of the federal government's management of Garrison Dam to the committee.

Chairman Fischer addressed the committee. He thanked each member of the committee for serving on the committee and thanked Representative Hofstad for agreeing to serve as vice chairman of the committee. He said the committee was responsible for a number of important topics, but much of the committee's time before the special redistricting session would be spent dealing with the Red River, Missouri River, Mouse River, and Devils Lake Basin flood issues.

Representative Hofstad addressed the committee. One topic the committee should study during the interim, he said, is the structure and financing of the State Water Commission.

STATE WATER COMMISSION

Chairman Fischer recognized Mr. Todd Sando, State Engineer, State Water Commission. Mr. Sando discussed the flooding on the Mouse River and in the Souris Basin, flooding on the Missouri River and

Missouri River Basin, and presented an update on flood control measures in the Devils Lake Basin ([Appendix B](#)). He said the amount of water flowing through Minot in the Mouse River was twice that of any previously recorded amount.

In response to a question from Representative Nelson, Mr. Sando said dams in Saskatchewan and Lake Darling were designed as multipurpose facilities to provide water for power as well as flood protection. He said Canadian officials and the United States Army Corps of Engineers did an admirable job when faced with an unprecedented amount of water in the Souris Basin.

In response to a further question from Representative Nelson, Mr. Sando said there may have been an opportunity for better flood forecasting and communication, but the escalating flood situation occurred during a short timeframe. He said the problems in Minot were not an operations problem but one of insufficient storage, the need for higher levies, and the need for greater setbacks from the river.

In response to a question from Senator Nodland, Mr. Sando said Lake Audubon and the McClusky Canal are not viable options to provide additional flood control on the Missouri River.

Concerning Devils Lake, Mr. Sando said the State Water Commission is designing an East Devils Lake Outlet. He said water must come from East Devils Lake rather than the Stump Lake system because of water quality concerns.

NATIONAL GUARD AND EMERGENCY SERVICES

Chairman Fischer recognized Major General David Sprynczynatyk, Adjutant General. Major General Sprynczynatyk reviewed the impact of statewide flooding in North Dakota. A copy of his written comments is attached as [Appendix C](#). He said the estimated state costs for 2011 flooding as of July 11, 2011, totaled \$410 million. He said this figure includes \$35 million in direct state costs, \$15 million in state indirect costs, \$250 million in public infrastructure costs, \$60 million in individual assistance, and \$50 million for the hazard mitigation program. He said 43 counties in North Dakota have been declared presidential disaster areas. In addition, he said, the Fort Berthold Reservation, Turtle Mountain Reservation, and Spirit Lake Reservation have been declared presidential disaster areas. He

said 4,115 structures in Minot have reported damage, 450 structures in Burleigh County, and 76 structures in Morton County, for a total of 4,641 structures damaged by 2011 flooding. He said when the total damages are calculated, the 2011 flood will be a \$1 billion flood event for the people of North Dakota.

In response to a question from Representative Nelson, Major General Sprynczynatyk said the estimated cost of the 2-1-1 hotline program is \$400,000, which agencies are attempting to fund internally. He said the Federal Emergency Management Agency has provided services for 7,805 individuals and approved \$8.2 million in individual assistance.

DEVILS LAKE AND RAMSEY COUNTY ISSUES

Chairman Fischer recognized Mr. Richard Johnson, Mayor, Devils Lake. Mr. Johnson thanked the Governor and state for Devils Lake flood efforts. He said the Devils Lake City Commission has gone on record as opposing the proposed Devils Lake east end outlet and Tolna Coulee control structure. The concern is, he said, that the state may hold water beyond the natural outlet level at 1,458 feet mean sea level, increasing inundation by Devils Lake. He said the city has requested a determination from the State Department of Health to change water quality standards on the Sheyenne River to allow for release of more water in a controlled fashion from Devils Lake. He said the city has yet to receive a response from the State Department of Health on this issue. He said if the standards were revised upward, additional water could be removed, and a catastrophic uncontrolled release from Devils Lake may be avoided. In conclusion, he said, the solution to Devils Lake flooding is to move more water and to do so quickly.

Representative Hofstad reminded Mr. Johnson that the Legislative Assembly will have a redistricting special legislative session later this fall and urged him to develop a consensus on a plan for consideration at the special legislative session.

In response to a question from Senator Triplett, Mr. Johnson said the growth areas within the city of Devils Lake are in the northeast, are at a higher elevation, and thus will not be affected by increased Devils Lake flooding.

Chairman Fischer recognized Mr. Joe Belford, Chairman, Ramsey County Board of Commissioners, Devils Lake. Mr. Belford discussed flooding in the Devils Lake Basin. A copy of his written presentation is attached as [Appendix D](#).

Representative Hofstad noted that Ramsey County had voted not to support the East Devils Lake Outlet. He said there must be a consensus among local residents and state officials on a solution to the Devils Lake problem.

Chairman Fischer recognized Mr. Ben Varnson, Nelson County Water Resource District. Mr. Varnson reviewed flooding issues in Nelson County.

MINOT AND WARD COUNTY ISSUES

Chairman Fischer recognized Mr. Dean Frantsvog, President, Minot City Council, Minot. Mr. Frantsvog reviewed the current flood situation in Minot. He said the current levee system in Minot will hold approximately 5,000 cubic feet of water per second with some freeboard. Early predictions, he said, calculated that the Mouse River flood would result in up to 11,000 cubic feet per second of water flowing through Minot which the city would have been able to handle with emergency diking. However, he said, ultimately the Mouse River reached 30,000 cubic feet per second in Minot, which necessitated the evacuation of 12,000 citizens--one-third of the city's population. He said approximately 4,000 homes were evacuated, and approximately 3,000 homes were totally destroyed or inundated. In addition, he said, approximately 200 businesses in the flood zone were damaged. He said current estimates of property damage are \$600 million with infrastructure damages of \$100 million to \$150 million. In conclusion, he said, although the citizens of Minot have a "can do" attitude, the flood is of historic proportions, and state aid will be required.

Chairman Fischer recognized Mr. Alan Walter, Public Works Director, City of Minot. Mr. Walter said approximately one-third of Minot housing stock was lost, and the city is divided in half by the Mouse River. Of the 4,100 damaged homes, he said, approximately 3,200 homes have six feet of water or more in them. He said the entire sewer system must be cameraed to determine whether there are any collapsed or damaged lines.

In response to a question from Representative Hofstad, Mr. Walter said the Northwest Area Water Supply Project is not affected by the flood and is moving forward.

In response to a further question from Representative Hofstad, Mr. Walter said the Minot water treatment plant survived the flood relatively intact. However, he said, the plant is being upgraded to treat 26 million gallons of water per day for the Northwest Area Water Supply Project.

In response to a question from Representative Damschen, Mr. Walter said there will be reluctance to reconstruct homes along the river, and the city has formed a committee to examine construction of a greenway along the river through the city. He said he is looking at a greenway design capable of handling 30,000 cubic feet per second of water.

In response to a question from Representative Nelson, Mr. Walter agreed that the impact is regional from Burlington to Velva. He said Minot is a regional trade center, and the flood in Minot impacts the entire region, including the agricultural community.

In response to a question from Senator Luick, Mr. Walter said the proposed flood greenway would be approximately 400 feet wide, would displace 200 homes, and would have floodwalls. He said the greenway would keep the city together and keep the city safe to 30,000 cubic feet per second.

Chairman Fischer recognized Mr. Dennis Fewless, Director, Water Quality Division, State Department of Health. Concerning Devils Lake, Mr. Fewless said in changing standards on the Sheyenne River, because there is a water-to-water discharge involved, the State Department of Health believes it can increase the sulfate standards to 750 milligrams per liter of water. He said this will increase the sulfate level on the lower Sheyenne River, but the level would return to 500 milligrams per liter by the time the water reaches the Canadian border at Pembina.

In response to a question from Representative Hofstad, Mr. Fewless said the sulfate standard is a state standard, but it still must be approved by the Environmental Protection Agency. He said the Environmental Protection Agency has indicated it will not approve increasing the sulfate standard from 450 milligrams per liter to 750 milligrams per liter on the lower Sheyenne River because it is a source of drinking water. He said if the standard is increased on the upper Sheyenne River above 750 milligrams per liter, it would create a domino effect on the lower Sheyenne River and the Red River.

BISMARCK AND BURLEIGH COUNTY ISSUES

Chairman Fischer recognized Mr. Bill Wocken, City Administrator, Bismarck. Mr. Wocken discussed Missouri River flooding in Bismarck. A copy of his written comments is attached as [Appendix E](#).

In response to a question from Senator Nodland, Mr. Wocken said the city of Bismarck has not completed an economic impact assessment of the flood.

Chairman Fischer recognized Mr. Brian Bitner, Chairman, Burleigh County Board of Commissioners. He said Burleigh County was under the impression that a flood of this magnitude could not happen in Burleigh County because of the Garrison Dam. However, he said, this belief has been shown to be unfounded, and Burleigh County will probably review ordinances to deal with future flood events.

MANDAN AND MORTON COUNTY ISSUES

Chairman Fischer recognized Mr. Jim Neubauer, City Administrator, Mandan. Mr. Neubauer reviewed the Missouri River flood impact in Mandan. He referred to a map of Mandan flood protection measures ([Appendix F](#)). He said the city of Mandan has expended approximately \$5.5 million on closing and dewatering the bays in south Mandan. Also, he said, the city is investigating installing a series of ground water wells to lower the ground water level in south Mandan.

Chairman Fischer recognized Mr. Bruce Strinden, Chairman, Morton County Board of Commissioners, Mandan. A summary of voluntary and mandatory evacuation information presented by Mr. Strinden is attached as [Appendix G](#). He said the county estimates approximately 225 residences housing 563 individuals were evacuated. He said the North Dakota State University Extension Service estimates approximately 10,000 acres along the Missouri River corridor are flooded. He said the Legislative Assembly should pressure the Army Corps of Engineers regarding its releases from Garrison Dam. He said the Army Corps of Engineers should release 35,000 cubic feet per second to 45,000 cubic feet per second of water all winter to alleviate flooding.

COMMITTEE DIRECTIVES

Representative Nelson requested the State Department of Health be asked to provide information concerning penalties for disregarding the sulfate levels in the Sheyenne River.

Senator Nodland requested the State Water Commission be asked to provide information on water permit applications for industry, whether permit applications are increasing, and whether there is a danger of ground water aquifer depletion at a future meeting.

Representative Nelson requested the State Water Commission be asked to provide information on rural water development in North Dakota at a future meeting.

No further business appearing, Chairman Fischer adjourned the meeting at 4:00 p.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:7